Richard Henderson: the authorship of the Cumberland compact and the founding of Nashville. By Archibald Henderson.
Henderson, Archibald, 1877-1963.
[Nashville?] 1916.

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Richard Henderson: The Authorship of the Cumberland Compact and the Founding of Nashville.

By ARCHIBALD HENDERSON.

(Reprinted from the Tennessee Historical Magazine, September 1916.)

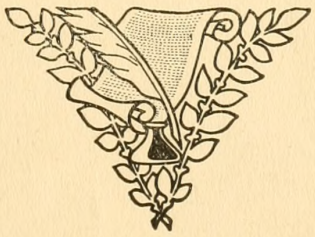

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PLATE I.

That if the Entry Taker to be appointed shall neglect or refuse to perform his Duty, or be found by the said Judges or a majority of them to have acted fraudulently to the prejudice of any person whatsoever, such Entry Taker shall be immediately removed from his office, and the Book taken out of his possession by the said Judges, untill another shall be approved to act in his room

That as often as the People in General are dissatisfied with the Doings of the Judges or Triers, so to be chosen, they may Call a new election at any of the said Stations and Elect others to act in their stead, having due respect to the number now agreed to be elected at each Station, which Persons so to be chosen shall have the same Power with those in whose room or place they or may be chosen to act

That as no consideration money for the Lands on Cumberland River within the claim of the said Richard Henderson and Company and which is the subject of this application, is demanded or expected by the said ~~Purchasers~~ Company untill a satisfactory and indisputable Title can be made, so we think it reasonable and Just that the twenty six pounds thirteen shillings and four pence current Money per hundred Acres, the price proposed by the said Richard Henderson shall be paid according to the value of money on the first Day of January last, being the time when the price was made Public, Settlement encouraged thereon by said Henderson, and

the

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RICHARD HENDERSON: THE AUTHORSHIP OF THE CUMBERLAND COMPACT AND THE FOUNDING OF NASHVILLE.*

(Reprinted from the Tennessee Historical Magazine, September 1916.)

I.

In the middle years of the eighteenth century the first constructive movement in the Southern Appalachian region, looking toward extensive colonization beyond the mountains, was initiated by great land companies having their headquarters in North Carolina and Virginia. In 1750 that same Dr. Thomas Walker who had won repute as an explorer upon a former journey when he gave the name of Cumberland to mountain, gap and river, was despatched upon a tour of exploration to the westward in behalf of the Loyal Land Company of Virginia; and in 1751, Christopher Gist, whose name is associated in our memory with that of George Washington, was summoned from his remote home on the Yadkin, near the dwelling place of Daniel Boone, to spy out the western lands beyond the mountains in the interest of the Ohio Land Company.[1]

Although no historian adverts to the subject, there can be little doubt that Daniel Boone was given the initial spur to his distant wanderings through the stories of the fertile lands upon the western waters brought back by his neighbor, Christopher Gist, who lived above him upon the Yadkin. As early as 1760, and no doubt much earlier, Daniel Boone, gun in hand, was scouring the wilderness of Tennessee, and penetrating as far to the westward as the Long Island of the Holston River. At Salisbury, the county seat of Rowan, he became known to the young attorney, Richard Henderson, who often practiced in the court where Daniel Boone's father, Squire Boone, presided as one of the "worshipful justices." To Henderson, richly endowed with imaginative vision, Daniel Boone, the scout and hunter, narrated bizarre and romantic tales of the rich lands, fertile pastures and boundless hunting grounds beyond the towering, olive mountains. The King's Proclamation of 1763, which was indubitably made to allay for the time being the alarm of the Indians along the border, was by no means designed to set permanent western limits to the colonies.

*An address delivered in Watkins Hall, Nashville, Thursday, April 27, before the Joint Meeting of the Mississippi Valley Historical Association with the Tennessee Historical Society.

[1]J. S. Johnston, "Early Explorations of Kentucky," *Filson Club Publications*, No. 13, 1898.

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This proclamation gave Henderson the first practical suggestion to utilize the knowledge and the genius of Boone in exploration in behalf of capital and enterprise. Realizing that the western lands must eventually be thrown open to colonization, Richard Henderson, soon after the issuance of the Royal Proclamation, organized a land company for the primary purpose of engaging an expert scout and surveyor to spy out the western lands and with the ultimate object in view of effecting a purchase from the Indians. The original company which consisted of three partners, Richard Henderson, Thomas Hart, and John Williams, was given the name of "Richard Henderson and Company." Boone was engaged for the undertaking, not only because of his natural genius as an explorer, but also on account of his innate taciturnity and his faculty of keeping his own counsel. Henderson was wise enough to give Boone discretionary powers in regard to prosecuting his inquiries; and in one noteworthy instance, the circumspect Boone deemed it the part of wisdom to communicate the purposes of his mission to some hunters, to enable him to secure the results of their information in regard to the best lands they had encountered in the course of their hunting expeditions. In the autumn of 1764, during the journey of the Blevins party of hunters to their hunting ground on the Rock Castle River, near the Crab Orchard in Kentucky, Daniel Boone came among the hunters, at one of their Tennessee station camps, in order, as expressed in the quaint phraseology of the day, "to be informed of the geography and locography of these woods, saying that he was employed to explore them by Richard Henderson and Company."[2] It was upon this journey that Samuel Callaway, his kinsman, accompanied Daniel Boone, who, as Ramsey says, "though he had previously hunted on the western waters, came again this year (1764) to explore the country, being employed for the purpose by Henderson and Company."[3]

Among the hunters who kept penetrating ever further to

[2]John Haywood's *Civil and Political History of Tennessee,* edn. 1823, p. 35. Judge Haywood was intimate from boyhood with the Henderson family, and was the schoolmate of Archibald Henderson, son of Richard, at Springer College in Granville County, the seat of the Henderson family. Judge Haywood's successor to the post of reading clerk to the North Carolina House of Commons, in 1789, was his friend, Major Pleasant Henderson, Richard's brother, and pioneer with Boone at Boonesborough and with Robertson at the French Lick. On his removal to Tennessee, Judge Haywood formed the acquaintance of many of the pioneers, from whom he received innumerable accounts of their personal experiences—notably James Robertson, John Sevier, and Timothé de Monbreun.

[3]Ramsey's *Annals of Tennessee,* Phila., 1853, p. 69.

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the westward, during each succeeding year beginning with 1760, was a trained woodsman and expert scout, Henry Scaggs, whom Boone encountered upon more than one occasion in his western wanderings. It was doubtless upon the recommendation of Boone, who recognized his great skill as hunter and scout, that Henry Scaggs was engaged as prospector by the land company known as Richard Henderson and Company. As early as 1763, Scaggs (sometimes incorrectly spelled Suggs or Scraggins) had already passed through Cumberland gap, and hunted for the season on the Cumberland; and in 1765, as the agent of Richard Henderson and Company, he made an extended exploration of the lower Cumberland, fixing his station at what was afterwards known as Mansker's Lick, from its supposed discovery by Gaspar Mansker in 1771.[4] Aware of the inadequacy of his knowledge of the western country derived from the fragmentary reports brought back by Boone and Scaggs, Judge Henderson for a time took no step toward western colonization; but when the news of the Treaty of Fort Stanwix reached North Carolina in December, 1768, he realized that the western lands, though ostensibly thrown open for settlement under the aegis of Virginia on pretext of the purchase of the shadowy claim of the Six Nations to the Kentucky region, could only be legally obtained by extinguishing the Cherokee title. The arrival of John Findlay, the Pennsylvania trader, in the valley of the Yadkin late in 1768 was singularly opportune; for Boone himself had never penetrated further westward than the northeastern fringe of Kentucky, whereas Findlay had reached Kentucky as early as 1752, and knew the route thereto through Ouasioto Gap and along the course of the Great Warriors' Path. Seizing the golden opportunity thus presented, Judge Henderson secured the services of Boone and five others, including Findlay as guide, to make an exhaustive survey and examination of the Trans-Alleghany region of Kentucky and Tennessee on behalf of the land company. Following a two years' sojourn in this region, in which he ranged far and wide through Kentucky and as far down as the valleys of the Green and Cumberland rivers, hunting in joyous company with Gaspar Mansker and the Long Hunters, Boone returned to North Carolina with graphic accounts of his explorations and of the nature of the country.

[4]Haywood's *Civil and Political History of Tennessee,* ed. 1823, p. 35; Ramsay's *Annals of Tennessee,* Phila., 1853, pp. 69-70; Albright's *Early History of Middle Tennessee,* Nashville, 1909, pp. 23, 29-30.

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II.

If Daniel Boone was the first great instrument in furthering the speculative designs of the land company, James Robertson was assuredly the second, though no whit less important than Boone. In 1772 the Watauga settlers secured from the Cherokee Indians, for a valuable consideration, a ten years' lease of the lands upon which they were settled; and Boone, who had established friendly relations with Robertson in 1771, communicated to Henderson the details of the leases and purchases from the Cherokees of the rich valley lands made by Robertson, Brown and Sevier. After consultation with the Indians, Robertson informed Boone, Henderson's confidential agent, that he believed, if the inducement were large enough, the Indians were ready to sell. Following the disastrous failure of his own unauthorized and individual effort in 1773 to effect western colonization without even attempting to secure by purchase the Indian title, Boone in 1774 advised Henderson and his associates to attempt the purchase immediately, since the Cherokee, as reported by Robertson, were at last disposed to sell their claim to the Kentucky area.[5] Acting upon legal advice solicited and received from the highest judicial authorities in England—an obscure subject of great importance into which I cannot enter at this time—Judge Henderson, accompanied by Colonel Nathaniel Hart, personally visited the Cherokee chieftains in their principal village and secured from them their consent to sell their title. Reorganizing the land company, originally known as Henderson and Company, first into the Louisa and then into the Transylvania Company, Judge Henderson, with the aid of Boone and Robertson, and some of his own associates, carried through the Great Treaty at Sycamore Shoals on March 14-17, 1775, purchased for 10,000 pounds sterling the Cherokee title to the Kentucky and Tennessee areas, and commissioned Daniel Boone and his axemen to cut out the passage to the heart of Kentucky, famous in history as the Wilderness Trail.

III.

Not the least erroneous statement in Mr. Roosevelt's *Winning of the West* is his singular assertion—which his own book in part denies—that after the confiscation of the Transylvania purchase by the Virginia legislature in 1778, Judge Richard

[5] *The Harbinger*, Chapel Hill, 1834, in which Major Pleasant Henderson, Judge Richard Henderson's brother, and Daniel Boone's friend and fellow-pioneer, relates that in 1774 Richard Henderson followed Daniel Boone's advice in attempting the purchase of the Kentucky area from the Cherokee.

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Henderson "drifts out of history." Surely there is excuse for such a statement in view of the strange, yet not wholly inexplicable, fact that the Tennessee historians, Haywood and Ramsey, upon whom Mr. Roosevelt so strongly relied, completely ignore the very man who was the directing and controlling spirit in the exploration, colonization and government of the wilderness empire of the Cumberland. Writing Tennessee history from the local point of view, magnifying the dangers and the hardships of the hunter and the borderer almost exclusively, these historians committed the grave error of neglecting to place themselves at the source and of failing to study the colonization of Tennessee in the light of economic control. Having recently described the true role of Daniel Boone as the agent of commercial enterprise,[6] I purpose now to narrate, in the light of a wealth of documentary material in my possession and inaccessible to Mr. Roosevelt and the Tennessee historians, the true story of the Transylvania Company in its relation to Tennessee and of the guiding and constructive role of its president in the founding of the great and flourishing city in which I now stand.

IV.

Following the stern fight for the rights of the Transylvania Company which Henderson and Burke made in the Virginia Legislature at Williamsburg in the late autumn of 1776—a hopeless battle in which they were worsted through the all-powerful influence of two great men, Patrick Henry and George Rogers Clark—Judge Henderson appeared before the Commissioners of the States of North Carolina and Virginia at the Treaty of the Long Island of the Holston on July 18, 1777, and presented an elaborate memorial in behalf of the alleged rights of the Transylvania Company.[7] Lacking the authority from their respective governments to inquire into the validity of private purchases from the Cherokee and fearing to jeopardize the delicate business for which they were assembled, the Commissioners unanimously voted to ignore the memorial of the Transylvania Company. In No-

[6]Cf. the following papers by me, dealing in some detail with this phase of the subject: "The Beginnings of American Expansion," *North Carolina Review*, September and October, 1910; "Richard Henderson: his Life and Times," *Charlotte Observer* (thirteen instalments), March 9-June 1, 1913; "The Creative Forces in Westward Expansion," *American Historical Review*, October, 1914; "Richard Henderson and the Occupation of Kentucky, 1775," *Mississippi Valley Historical Review*, December, 1914.

[7]Haywood's *Civil and Political History of Tennessee*, edn. 1823, Appendix, pp. 500-3.

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vember of the next year, the Virginia House of Delegates declared the Transylvania purchase void; but in consideration of the very great expense incurred by Richard Henderson and Company in purchasing the said lands, "by which the Commonwealth is likely to receive great advantage, by increasing its inhabitants and establishing a barrier against the Indians," the General Assembly granted to Richard Henderson and Company two hundred thousand acres of land situated between the Ohio and Green Rivers, where the town of Henderson, Kentucky, now stands.[8]

With this bursting of the Transylvania bubble and the vanishing of the golden dreams of Henderson and his associates for establishing the fourteenth American Colony in the heart of the Trans-Alleghany region, all might well have seemed lost. But is Richard Henderson disheartened by this failure of his imperialistic dreams? Does he, as Mr. Roosevelt crassly affirms, "drift out of history?" No; the purest and greatest achievement of his meteoric career still lies before him. The genius of the colonizer and the ambition of the speculator, in striking conjunction, inspire him to attempt to repeat on North Carolina soil, along solidly practical lines, the revolutionary experiment which the extension of the sovereignty of the Old Dominion over the Kentucky area had doomed to inevitable failure. It was no longer his purpose, however, to attempt to found an independent colony, separate from North Carolina and hostile to the American government, as in the case of Transylvania, which had been hostile to the royal government and founded in defiance thereof. Millions of acres within the chartered limits of North Carolina had been purchased by him and his associates from the Cherokee on March 17, 1775. One of the courses of the Great Grant, as it was called, read: "down the sd. (Cumberland) River, including all its waters to the Ohio River;"[9] and James Robertson in his deposition before the Virginia Commissioners, April 16, 1777, describing the Sycamore Shoals Treaty, categorically stated: "The Indians then agreed to sell the land as far as Cumberland River and said Henderson insisted to have Cumberland River and the waters of Cumberland River, which the Indians agreed to."[10] To establish the fact that this vast territory lay within the bounds of North Carolina and not of Virginia was the first and most vital consideration of the Transylvania Company; for while Virginia had declared the

[8]*Journal, Virginia House of Delegates,* November 4 and 17, 1778. Cf. also Hening's *Statutes at Large,* X, 571.

[9]Draper Mss., 2CC42.

[10]Draper Mss., 1CC 160-194.

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title of the Transylvania Company void, North Carolina, under American rule, had shown no disposition to nullify the claims of Henderson and his associates. In order to establish the fact that the great Cumberland region lay within the chartered limits of North Carolina, it was necessary to prolong the dividing line between North Carolina and Virginia, which had never been extended further to the westward than Steep Rock Creek. Henderson's unpublished correspondence reveals his conviction that the Cumberland region lay within the chartered limits of North Carolina; but James Robertson was under the impression that the Cumberland region, including the French Lick, would, when the dividing lines should be run, fall within the bounds of Virginia.[11]

Judge Henderson's comprehensive design of the promotion of an extensive colonization of the Cumberland region now moves rapidly toward completion. It is simply a case of history repeating itself. Just as Henderson, in his Boonesborough project, had chosen Daniel Boone, the ablest of the North Carolina pioneers, and his companions, to spy out the land and select sites for permanent future settlement, so now he chooses as the leader of the new colonizing party the ablest pioneer of the Watauga settlement, James Robertson. Large inducements to assemble and lead this party were indubitably offered by the Transylvania Company to James Robertson. Nothing less than such inducements would have influenced Robertson to abandon the comparatively peaceful Watauga settlements, where he was the acknowledged leader and the Indian agent in the employ of the State of North Carolina, and to venture his life in this desperate hazard of new fortunes.

With that untiring energy and sure efficiency so characteristic of the man, James Robertson now proceeds actively to recruit a party for the preliminary exploration, and to make all the needed arrangements for subsequent colonization on an extended scale. "The extensive purchase made by the Henderson Associates," says Putnam, the picturesque historian of Middle Tennessee, "and the further reports made by hunters and agents of the large land company as to the country beyond the mountains, and the very favorable terms upon which large tracts—a thousand acres—would probably be granted, were attracting unusual attention. The Hendersons, Hart, and other members of the company were now causing it to be extensively known that they were making preparations to emigrate, and take possession of the country. A considerable number of families agreed to move out in the

[11]Putnam's *Middle Tennessee*, p. 67.

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fall. Some were to go by land with cattle, and what could thus be packed, others to descend the Tennessee to the Muscle Shoals, and being there met by their immediate friends, travel across to the Cumberland and into Kentucky; or if it should be deemed easiest and best, this party, with women and children, should continue all the distance by water."[12] In his letter to Gov. Richard Caswell, of North Carolina, written from Washington County on January 14, 1779, in regard to a proposed military expedition to be made by North Carolina against the Cherokees, James Robertson writes: "I am well informed that the first day of March near 200 men and many families amongst them, are to meet at the Long Island of Holston in order to go down the river, with a design to settle Cumberland river, a fork of the Ohio, which might be a convenient time for the Expedition; and posably (*sic*) under the cover of Women and Children they might pass unmolested; and I have told the Indians that people are going to settle that country the coming spring."[13] Preparatory to this emigration, as pointed out by Putnam, "it was agreed that a number of men should go in the spring of the year and plant some corn upon the Cumberland, that bread might be prepared for the main body of emigrants upon their arrival in the fall. Robertson selected his men, or found suitable volunteers to go with them, experienced woodsmen and able-bodied men."[14] On February 6, 1779, as stated by Moses Fisk in his historical sketch of Tennessee, James Robertson as leader, accompanied by George Freeland, William Neely, Edward Swanson, James Manly, Mark Robertson, Zachariah Wells, and William Overhall, and one negro man, "set out on this adventure to examine the purchase made by Richard Henderson and Company, at the treaty of 1775."[15]

V.

The immediately following phases in the story of the Cumberland settlement are familiar enough to all who are acquainted with early Tennessee history. Yet certain documents which have recently come to my attention in archives in

[12]*History of Middle Tennessee*, Nashville, 1869, p. 61.

[13]*N. C. State Records*, xiv, 247.

[14]Putnam, l. c., 63.

[15]The words quoted are from Putnam, *l. c.*, p. 64. In Fisk's sketch, entitled, "A Summary Notice of the First Settlements Made by White People within the Limits Which Bound the State of Tennessee," and published in the *Massachusetts Historical Collections*, Vol. 7, under date July 1, 1816, it is stated that Robertson, accompanied by "ten men, including a negro, started for the Holston settlement to explore and take possession of the country on the Cumberland."

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England, North Carolina and Virginia, give additional interest and piquancy to the situation. The significant facts are as follows: The Long Hunter, Gaspar Mansker, of German extraction, in 1771 "discovered" the famous lick which bears his name; and influenced by Tom and Sam Bryan, with whom he re-visited the Cumberland country in 1775, he claimed this land by right of settlement under the State of Virginia.[16] Furthermore, Col. Arthur Campbell, the Virginia borderer, had visited the Cumberland country in the early seventies—a fact unknown to the Tennessee historians—and had registered, under Col. Wm. Preston, surveyor of Fincastle Co., Va., his claim to "1,000 Acres at a place called Gaspar's Lick, being on a creek that empties into Cumberland below the Barrens." Col. Campbell also located 1,000 acres of land for Col. Wm. Byrd, the third, who devised it to his son Charles in his will as follows: "I give my son Charles, who never offended me, a thousand acres of land in the County of Fincastle, known by the name of the Salt Springs, and which was surveyed for me by Mr. Arthur Campbell, being part of the land I claim under his Majesty's Proclamation of 1763."[17] Most important of all, George Rogers Clark, the Virginian, had purchased three thousand acres of land at the French Lick in the year 1776; and referring to this purchase in a letter to Patrick Henry from Fort Patrick Henry, in the Illinois Country, March 9, 1779, he says: "I thank you for your remembrance of my situation respecting lands in the Frontiers. I learn that Government has reserved on the lands on the Cumberland for the Soldiers. If I should be deprived of a certain tract of land on that River which I purchased three years ago, and have been at a considerable expense to improve, I shall in a manner lose my all. It is known by the name of the great french Lick on the South or West side

[16]Unpublished letter from Col. Arthur Campbell to Gov. Richard Caswell of North Carolina. In this letter, dated Richmond, November 8, 1782, in speaking of his preemption of 1,000 acres "on the waters of Cumberland River," Campbell remarks: "There is a man in that country by the name of Mansker who now claims the land by right of settlement, but my location was made several years before he moved to that country, and I believe he would never have troubled me by interfering with my claim had he not been instigated by Tom and Sam Bryan, with whom he was intimate—." Cf. Albright's *Early History of Middle Tennessee,* 28-30.

[17]Cf. Arthur Campbell to Richard Caswell, Governor of N. C., November 8, 1782, Archives N. C. Historical Commission. For will of Col. Wm. Byrd, 3d, which was dated July 6, 1774, and proved February 5, 1777, cf. *Virginia Magazine of History and Biography,* Vol. IX, pp. 80 *et seq.* After the Cumberland region was found to lie within the bounds of North Carolina, letters and memorials from Arthur Campbell and the widow of Col. Wm. Byrd were presented

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containing three thousand Acres. If you can do anything for me in saving it, I shall for ever remember it with gratitude."[18]

From these, and other pre-emptions doubtless known to him, James Robertson suspected that the French Lick lay within the bounds of Virginia. In particular, the fact of Clark's purchase of the three thousand acres, including the French Lick, a purchase doubtless effected through the instrumentality of Col. Arthur Campbell, was well known at Watauga and along the border. Although the inducements held out to him by the Transylvania Company were greater than those held out by the State of North Carolina, Robertson resolved to remain on the safe side by attempting to secure from George Rogers Clark as owner, holding the title under the Virginia claim, "cabin rights" to the pre-emptions on the Cumberland at the French Lick.[19] Certain it is that,

in 1782 to the North Carolina legislature for validation of these land titles. Neither application was successful. Mrs. Byrd's memorial was not brought up for final action in the North Carolina Legislature until four years later; there was some delay caused by the failure to attach a copy of Col. Byrd's will to Mrs. Byrd's memorial. In their report, dated December 31, 1786, in reply to the petition of Rev. Robert Andrews, to whose charge Mrs. Byrd's interests were committed, the committee, consisting of General Rutherford, General Gregory, Mr. Relfs and Mr. Lewis, state in specific terms:

"That it appears to your committee by the papers and documents before them that the late Honorable William Byrd was entitled for his military services to five thousand acres of land under the Proclamation of his Britannic Majesty in Council of 1763. That in consequence one thousand acres thereof are located, as appears by a Certificate of the late Colo. William Preston, Surveyor of Fincastle County in Virginia, at the great Salt Lick on Cumberland River now called Nashville.

"Your Committee considering the nature and extent of the sd. proclamation, and it being fully ascertained to them by the extension of the boundary line between this and the State of Virginia, that the aforesaid entry was made on lands within the proprietary part of the Carolina's (*sic*) and consequently not within the gift of the Crown, are of opinion that the claim of the late Honorable William Byrd to the said lands is inadmissible." Archives of the N. C. Historical Commission. Cf. *State Records of N. C.*, xviii, 33, 190.

[18]B. M., Add. Mss., 21, 782, f. 199. This letter is printed in "George Rogers Clark Papers, 1771-1781," Vol. viii, *Illinois Historical Collections*, Vol. III, Virginia Series, edited by J. A. James, 1912, pp. 304-5. In a letter to William Mayo, Virginia, l. c., pp. 380-1, copied from Draper Mss., 50J1, George Rogers Clark, writing from Louisville, Kentucky, January 8, 1780, says: ". . . but in order to have done with it I have purchased that quantity (10,000 acres) of Improvement on Cumberland and Inclose a memorandum (*sic*) the Best Land in that Countrey as they war first Chose."

[19]"Robertson had agreed to go to the Illinois and purchase 'cabin rights' of General George Rogers Clark, from whom some of the emigrants recently from Virginia gave assurance that such land-

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shortly after planting corn on the present site of Nashville, and taking other necessary steps attendant upon the establishment of an infant settlement, Robertson made a long trip through the wilderness to Post St. Vincent, visited General Clark at Fort Patrick Henry, and "had an understanding with him, to be carried into execution upon subsequent application."[20] The nature of this understanding is easily surmised, namely that the settlers on Clark's lands on the Cumberland would, at some future time, pay him the purchase money for the "cabin rights" to their pre-emptions, should the French Lick, on the extension of the North-Carolina-Virginia line prove to fall within the chartered boundaries of Virginia.

VI.

As early as 1777, following the Treaty at the Long Island of Holston in July of that year, it became manifest to the commissioners of the State of North Carolina and Virginia that, owing to the progress of emigration westward and the growing aggravation of uncertainties as to land titles, it would be eminently desirable to extend still further westward the boundary line between North Carolina and Virginia. In the latter part of 1778, acts providing for the extension and marking of the boundary line were passed by both North Carolina and Virginia; and among the Commissioners appointed from North Carolina were Judge Richard Henderson, Col. John Williams, and Capt. William Bailey Smith, all of whom had played active parts in the founding of the Colony of Transylvania. The Commissioners from each State agreed to meet in the latter part of the summer of 1779 at the western end of the line formerly run, and thence to prolong the line westward. Meantime the colonization of the Cumberland, instigated by Judge Henderson as President of the Transylvania Company, and to be engineered by James Robertson, had been delayed; and the party of settlers had failed to start from the Long Island on March 1st as prophesied by Robertson. Col. Nathaniel Hart, one of the proprietors of the Transylvania Company, living at Boonesborough, Kentucky, actively fostered the plans for the expedition by water of Col. John Donelson, and supplied him with some corn for the journey. "In connexion with the early history of Kentucky," records his son, Col. Nathaniel Hart, Jr., "it may not be amiss to state

claims could be procured for very small sums." Putnam's *History of Middle Tennessee*, pp. 64-5, 67. The present research thus first accurately accounts for Robertson's long and arduous journey to the Illinois country.

[20]Putnam, *l. c.*, p. 65.

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that Cumberland (now Middle Tennessee) was also mainly settled under the auspices of Henderson and Co."[21] Judge Henderson left his home in Granville County, North Carolina, on August 18, 1779, and together with John Williams and William Bailey Smith, joined the Virginia Commissioners at a waste cabin on Steep Rock Creek on September 1.[22]

In the course of the running of the line, so graphically described in the *Journal of Daniel Smith,*[23] there developed a lack of agreement between the commissioners of North Carolina and those of Virginia with reference to the observations upon which the running of the line must depend; and upon reaching Cumberland Mountain, on November 18, the Carolina Commissioners abandoned the further running of the line. Judge Henderson, accompanied by his brothers, Pleasant, Nathaniel and Samuel, and a few others, went on in order to observe the Virginia Commissioners continue their line to the Tennessee River; and reached Boonesborough on Christmas Day, 1779.[24] On this same date, the swarm of colonists from the parent hive at Watauga, which had gone overland under Robertson's guidance, passed their first day at the French Lick, and on January 1, 1780, crossed the river on the ice to the present site of Nashville.[25]

It is most significant that the document, known as the

[21]N. Hart, Jr., to Wilkins Tannehill, in *Louisville News-Letter,* May 23, 1840.

[22]In connection with the running of the dividing line, the following passage from a letter of Col. Richard Henderson's now in my possession, postmarked Holston, September 12, 1779, is of more than ordinary interest:

"The Virginia Commissioners, to wit Doctor Walker and Major Daniel Smith (of Clinch) who from some inaccurate observations before we came had given out in speeches that the Long Island would be miles in Virga. and thereby had blown up the inhabitants with hopes of great extension of territory, are brought to bed.—Indeed the people here in General look as if they had lately miscarried, and hourly are making applications for Land from our Company &c.—Men who, two years ago, were clamorous against Richard Henderson and Company, and Damning their title, are now with pale faces, haunting our Camp and begging our friendship with regard to their Land."

[23]*Tennessee Historical Magazine,* March, 1915.

[24]In Fleming's Journal we read, under date of December 25, 1779: "Sam. Henderson arrived with some of the Commissioners from Carolina having quitted running the line on some disagreement with the Virginia Commisrs. who continued to go on with the line.—Dec. 26. Clear and moderate. Mr. Henderson took the Lat. and made this place 37° 48′." In Durrett Collection, University of Chicago Library.

[25]Putnam's *History of Middle Tennessee,* p. 66.

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Cumberland Compact, explicitly testifies—although the fact has been ignored by historians—that the French Lick was founded under the auspices of the Transylvania Company and the patronage of Judge Henderson, and gives the date of the founding as January 1, 1780. The rate of valuation at which payment for the Cumberland lands was to be made, in case the title of the Transylvania Company should be confirmed, was fixed, viz.: "According to the value of money on the first day of January last, being the time when the price was made public (and) settlement encouraged thereon by said Henderson."[26]

VII.

Meanwhile the fate of this colony which he had promoted, and upon whose efforts the subsequent fate of the Transylvania Company depended, was weighing heavily upon the mind of Judge Henderson. The terrible hardships of this bitter winter, ever afterwards known as the "hard winter," which he had endured in the course of his difficult and dangerous journey to Boonesborough, brought to his mind the thought of equal or greater hardships which Robertson and his party must likewise have borne in their arduous journey overland to the French Lick. But his concern was, if anything, greater for the party of men, with many women and children, also destined for the French Lick, who under the leadership of Col. John Donelson had set sail from Fort Patrick Henry, on Holston River, in the good boat Adventure on December 22, 1779. With paternalistic care and a lively sense of responsibility for the welfare of these two parties which he had himself induced to make the great venture, Judge Henderson proceeds to purchase, in Kentucky, at huge cost a large stock of corn for the colony at French Lick. In a letter of John Floyd's, dated Harrodsburg, 20th Feb., 1780, is found the following statement: "I have no bread yet, but expect a small supply from my friend Col. Henderson at Boonesborough, who has greatly befriended me by sparing that which he may want himself, and only waits for high water to send it down with his own on the way to the mouth of Green River, where he is about

[26]Cf. the facsimile accompanying this article, on which these words appear. Putnam records: "Col. Henderson was a sound lawyer, a man of thorough education, an accomplished gentleman, an honorable and patriotic man, and sought and took no advantage of the confidence placed in him. Sales were made, but payment conditioned on a confirmation. Purchasers here were never urged to make any payments on contracts into which they had entered. Old settlers ever entertained for Henderson a very high regard as a gentleman and patriot." *Middle Tennessee,* 88-9.

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to form a settlement."[27] The corn for the Cumberland settlement, hundreds of bushels, purchased by Judge Henderson at Boonesborough, was on March 5, 1780, "sent from Boonesborough in perogues under the command of the late Major William Bailey Smith of Ohio County, Kentucky. This corn was to be taken down the Kentucky River, and over the falls of the Ohio, to the mouth of the Cumberland, and thence up that river to the fort at French Lick. It is believed to have been the only bread which the settlers had until it was raised there in 1781; for although corn was planted there in 1780, yet the place was so annoyed by the Cherokees, that the settlers were not permitted to cultivate it."[28] There is a note of deep impressiveness in this heroic triumphing over the obstacles of obdurate nature and this thoughtful provision for the exposed Cumberland settlement projected and promoted by the Transylvania Company—the purchase by Judge Henderson and the shipment by Col. Hart, in that awful winter of bitter cold and obstructed navigation, of this indispensable quantity of corn valued at sixty thousand dollars in depreciated paper.

While Major William Bailey Smith, with his precious cargo of corn, was making the long journey by water to the French Lick, Judge Henderson, accompanied by his brothers, Pleasant and Nathaniel, and by Col. Nathaniel Hart, started overland to join Robertson and Donelson, and to draw up a

[27]Draper Mss. 33 S 317. "Green river," which flows into the Mississippi not a great distance from the mouth of the Cumberland river, is an obvious error in the above statement. It should read "Cumberland river." The settlement, as we know, was not to be made at the mouth of the Cumberland.

[28]This statement is made by Col. Nathaniel Hart, Jr., son of Col. Nathaniel Hart, one of the partners of the Transylvania Company. Col. Hart continues: "This corn had been raised by my father at Boonesborough, in 1779; and I have now before me an account against Col. Donaldson (Donelson) for nine bushels, which he says ought to rate high at the French Lick, as it had been worth $200 per bushel at Boonesborough." Nathaniel Hart, Jr., to Wilkins Tannehill, Spring Hill, April 27, 1839, in *Louisville News-Letter*, May 23, 1840. Clearly Donelson derived the information as to the price of the corn from Col. Richard Henderson, the purchaser, at their meeting on March 31. In Butler's *History of Kentucky* (1834 ed.), note, p. 99, the following abstract from Col. John Floyd's correspondence states: "The price of corn fluctuated from fifty dollars per bushel in December, 1779, to one hundred and sixty-five dollars per bushel, in January, 1780. These prices were at a period of obstructed navigation, and in depreciated paper; but its value in gold and silver is not known." It is clear that by February, 1780, the price had risen still higher, to the almost incredible price of $200.00 per bushel.

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form of government for the infant settlement on the Cumberland.[29]

The most memorable entries in Donelson's famous journal are the references to Henderson and Robertson—projector and leader, respectively, of the Cumberland settlement. Although James Robertson failed to meet Donelson's party at the Muscle Shoals or to leave signs there for their guidance, they were met further up the river, on Friday, March 31, by the watchful and anxious Henderson. The entry in Donelson's journal, demonstrating the wise forethought of the promoter of the settlement, reads as follows: "Set out this day, and after running some distance, met with Col. Richard Henderson, who was running the line between Virginia and North Carolina. At this meeting we were much rejoiced. He gave us every information we wished, and further informed us that he had purchased a quantity of corn in Kentucky, to be shipped at the Falls of Ohio, for the use of the Cumberland settlement. We are now without bread, and are compelled to hunt the buffalo to preserve life."[30]

Judge Henderson, his two brothers, and Col. Hart arrived at Col. Daniel Smith's camp, at Amos Eaton's, on Friday,

[29]This party must have started about the middle of March; for on March 10 Judge Henderson was still at Boonesborough. In a letter describing conditions in Kentucky, written from Boonesborough, March 10, 1780, one reads: "A Boat of Colo. Henderson's is setting off tomorrow or next day for the falls (Louisville) by which we shall send an address to Colo. Clark to superintend this matter and obtain his answer as soon as possible. Mr. Henderson's boat will be at Leestown on Tuesday next and will be convenient for you to send by." A. L. S. in Draper Mss., 50 J 18, printed in *George Rogers Clark Papers*, 1771-1781, pp. 396-8. This letter contains the following endorsement:

"March 10, 1780.

"At a full meeting of the inhabitants of Boonsb'gh Collected on the melancholy Occasion of the foregoing Letter it was unanimously agreed that the sd. Letter should be Written which was accordingly Done, and Capt. David Gess Direct'd to subscribe his name Thereto for and in Behalf of the Whole. Certified under my hand this 10th of March, 1780. Richd. Henderson."

[30]Putnam: *Middle Tennessee*, p. 75. In a statement made by Mrs. Donelson, she relates: "When they met Col. Rd. Henderson, Gen. Dl. Smith & Capt. Nathl. Hart, on Cumberland, all were rejoiced, particularly Colo. Donelson, who was highly delighted—learned of Capt. Robertson's safe arrival at the Salt Lick (now Nashville)—that corn had been purchased in Kentucky." The information that Capt. Robertson and party had arrived safely at the Salt Lick prior to March 14, was furnished by General Daniel Smith, who was there on that date. Through inadvertence, he makes no reference in his journal to the presence of Robertson and his party at the French

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April 7, and left that place shortly after April 10[31] for the French Lick, doubtless arriving there in advance of Donelson and his party. Silently eloquent of the granite endurance and courageous spirit of the typical American pioneer—thankfulness for sanctuary, for reunion of families and friends, for the humble shelter of a log cabin—is the last entry in Donelson's Diary, of date Monday, April 24, 1780:

"This day we arrived at our journey's end at the Big Salt Lick, where we have the pleasure of finding Capt. Robertson and his company. It is a source of satisfaction to us to be enabled to restore to him and others their families and friends, who were entrusted to our care, and who, some time since, perhaps, despaired of our meeting again. Though our prospects at present are dreary, we have found a few log cabins which have been built on a cedar bluff above the Lick by Capt. Robertson and his company."

VIII.

The lapse of time now forbids me to pursue further this story of the strenuous struggles and incredible hardships of the Cumberland settlers, who established here a permanent bulwark against the copper-hued savage and laid here forever the foundations of what is now the great and populous city of Nashville. I will content myself with presenting to you one fundamental historical truth as the culmination of this research. This is the question in regard to the authorship of the famous Cumberland Compact. The cocksure Mr. Roosevelt, with his habitual dogmatism, concludes, without proof or evidence, that the author of that remarkable document was James Robertson.[32] The inherent truth of the situation, if other evidence were not finally conclusive, demonstrates this to be impossible. The best informed writer on this subject, Putnam, who in 1846 discovered the original document now

Lick. In reference to Mrs. Donelson's statement (Draper Mss., 32S304-305), Draper observes that Mrs. Donelson thinks the corn never came. This is an error. The corn was brought safely in to the French Lick; and Major William Bailey Smith, who was in command of the boats which bore the corn, reached the French Lick in time to sign the Cumberland Compact. Doubtless Mrs. Donelson was thinking of Isaac Bowman's batteau from Kaskaskia, which fell into the hands of the Chickasaw Indians.

[31]Cf. Daniel Smith's "Journal," *Tennessee Historical Magazine*, March, 1915, p. 63, which contains the following: "April 7th. Friday Horses not all found—Received a letter from the Governor to go to the Falls of Ohio on particular business. Col. Henderson brought this letter."

[32]A study of the original document would have repaid Mr. Roosevelt and have saved him from error.

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PLATE II.

1 Church Bible	1	Vol
1 Common Prayer book	1	Vol
Blackstones Commentaries	4	Vol
Smollets letters	2	Vol
Johnston's Dictionary - two sets	4	Vol.
Virginia Laws	1	Vol.
Voltairs works	35	Vol
	40	Volumes

Sir, The above mentiond books with som others which I cant now recollect I left at Boons borough, and am informd they have since fallen into your hands; Therefore desire that you will deliver them to Coll. Daniel Boone, and if any of them should be scattered to other places, I shall be much obliged, if you would assist in collecting them

I am for your Hble Servt

Richd Henderson

15th March 1784

To

Capt John Holder

at

Kentucky — Or to any other Person who has my Books in possession

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jealously preserved in the archives of the Tennessee Historical Society, says: "As Richard Henderson, and the other members of the 'Transylvania Land Company' were here at this juncture (April, 1780), he (Henderson) was foremost in urging some form of government."[33] A brief inspection will demonstrate its character. First of all, the Cumberland Compact is a mutual contract between the co-partners of the Transylvania Company and the settlers upon the lands claimed by the company. It is, moreover, a bill of rights, through careful provisions safeguarding the rights of each party to the contract. The significant feature of the document is that it is an elaborate legal paper which could have been drafted only by one intimately versed in the intricacies of the law and its terminology. Nothing, indeed, could more effectively exhibit the purpose for which the Association was established and the Compact drawn up than the following clause in the instrument itself:

"That as no consideration-money for the lands on Cumberland River, within the claim of the said Richard Henderson and Company, and which is the subject of this Association, is demanded or expected by the said Company, until a satisfactory and indisputable title can be made, so we think it reasonable and just that the twenty-six pounds thirteen shillings and four pence, current money, per hundred acres, the price proposed by the said Richard Henderson, shall be paid according to the value of money on the first day of January last, being the time when the price was made public (and) settlement encouraged thereon by said Henderson, and the said Richard Henderson on his part does hereby agree that in case of the rise or appreciation of money from that—an abatement shall be made in the sum according to its raised or appreciated value."[34]

The indisputable facts that Richard Henderson, eminent as lawyer and jurist, was the only lawyer on the Cumberland in May, 1780, and that his name heads the list of two hundred and thirty-odd signatures to the document known as the Cumberland Compact, has led one of the justices of your own Supreme Court, a deep student of early Tennessee history, the Hon. Samuel C. Williams, to state in print that "without serious doubt" Judge Henderson was the draftsman of the compact of government.

Familiarity with original letters of the sturdy Robertson—with both his chirography and his mental processes—and also with the chirography and contents of the Compact conclu-

[33]Putnam: *Middle Tennessee*, p. 84.

[34]Compare plate I.

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sively dispels the notion that Robertson may have been the author and draftsman of the compact. I am now, and have been for some years, able to alter the "without serious doubt" of Judge Williams into "without any doubt whatsoever," by the categorical statement that the document of May 1, and also the document of May 13, 1780, are written throughout in the same handwriting; and this handwriting is the bold and characteristic chirography of the man who purchased the territory, projected and personally co-operated in the settlement, sedulously nurtured it with the fruits of the earth purchased at fabulous cost, and led in urging the adoption of a written form of government at the French Lick—the President of the Transylvania Company, Judge Richard Henderson, of North Carolina.

It may be the time is not far distant when in this great city of Nashville, patriotically signalized by its monuments and memorials to James Robertson, sagacious and paternal leader, and to John Donelson, intrepid and successful pioneer, there shall be erected some adequate memorial to the pioneering genius and empire-building imagination of the man who inaugurated and engineered the hazardous and arduous enterprise of a settlement at the French Lick, drafted the Cumberland Compact, and is rightfully entitled to divide with James Robertson and John Donelson the honors in the founding of Nashville.

ARCHIBALD HENDERSON.

Fordell, University of North Carolina.

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PLATE III.

1

Richd Henderson.

Signature, Executive Docket, Court Pleas and Quarter Sessions. Salisbury, Rowan Co., N. C., Sept., 1769.

2

Richard Henderson

Name as it appears in the text of the Cumberland Compact, Nashborough, May 13, 1780

3

Richd Henderson

Signature, letter to Captain John Holder, March 15, 1784.

4

Richd Henderson

First signature to the Cumberland Compact

5

Richard Henderson.

Signature, Memorial to the General Assembly of North Carolina, May 15, 1784.

6

Richard Henderson

Name as it appears in the text of the Cumberland Compact.

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APPENDIX.

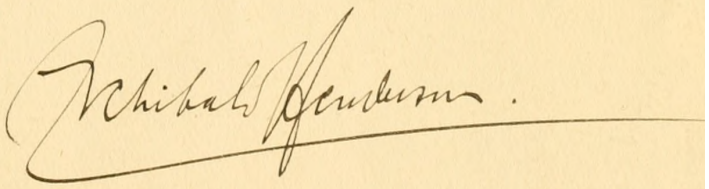
In connection with the question of the authorship of the Cumberland Compact, I append an affidavit made by the two Tennessee historical scholars who have made the most minute and critical study of the original document, preserved in the archives of the Tennessee Historical Society. My thanks are now gratefully expressed to these gentlemen, Mr. John H. DeWitt, president of the Tennessee Historical Society, and the Rev. W. A. Provine, D.D., for their minute comparison of the documents; to Mr. J. S. Walker of Nashville, for valuable assistance and suggestions; and to Professor St. George L. Sioussat for courtesies extended. I am indebted also to the late Gen. Gates P. Thruston, sometime president of the Tennessee Historical Society, for courtesies extended me several years ago in connection with the present research.

All historical scholars without exception, who have compared the original manuscript of the Cumberland Compact or facsimile thereof with attested specimens of Judge Richard Henderson's handwriting, testify that the original Cumberland Compact is drafted throughout in Judge Henderson's handwriting. It is perhaps worthy of note that in the body of the document Judge Henderson employs a formal or conventional capital R, of a sort which he did not habitually use in making his own signature. The six (6) signatures which I have traced from the original documents or from facsimiles, photographic or photostatic, shown on a plate (III) accompanying this article, exhibit variations in the making of the capital H as well as in the making of the capital R.

The interested student may compare the facsimiles of documents which accompany this article—the one being a page of the Cumberland Compact (Plate I), the other being a letter from Judge Henderson to Capt. Holder (Plate II).

In the paper above printed, with accompanying documents, it is now established that Judge Henderson drafted the original Cumberland Compact. It is not unreasonable to suppose, although there is no proof of it, that certain clauses in the document were drawn by Judge Henderson with the assistance of Captain James Robertson. Indeed, the laws, as drafted, represented the collective will of this pioneer community; and it may be that both Robertson and Donelson, voicing this collective will, thus aided Judge Henderson to draft a series of articles for the government of their association.

ARCHIBALD HENDERSON.



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AFFIDAVIT.

STATE OF TENNESSEE,
COUNTY OF DAVIDSON.

We, W. A. Provine and John H. DeWitt, make oath that on April 28, 1916, with Dr. Archibald Henderson, of Chapel Hill, North Carolina, we carefully examined the original Cumberland Compact (in the custody of the Tennessee Historical Society), and compared the same with certain photographic facsimiles of certain pages of writing furnished us as the genuine handwriting of Judge Richard Henderson of North Carolina, who was president of the Transylvania Company, to-wit, a page of the diary of Richard Henderson written in 1775, the original of which is in the Draper Mss. at Madison, Wisconsin; a photostatic copy of his memorial to the Legislature of North Carolina in 1784, the original of which is in the archives of the North Carolina Historical Commission, Raleigh, North Carolina; and a pencil tracing of his signature as judge of the Superior Court of North Carolina, the original of which is in the court house at Salisbury, N. C. (The information as to the nature and location of these papers being furnished us by Dr. Archibald Henderson.) While our attention was not given to the subject-matter of these writings, nevertheless, we made a very careful comparison of the handwriting with the handwriting of the text of the Cumberland Compact and the name of Richard Henderson as the first signer thereto; and we are both convinced without reservation that the handwriting of the Cumberland Compact and all of the aforesaid documents is one and the same. We especially noted that the signatures of Judge Richard Henderson as traced from the Salisbury court house records and as appended to the Cumberland Compact are identical.

We are convinced from these comparisons that Judge Richard Henderson was the draftsman and author of the original Cumberland Compact.

(Signed) W. A. PROVINE.
JOHN H. DEWITT.

Sworn to and subscribed before me, on this the 30th day of May, 1916.
JOHN H. LECHLEITER,
(Seal) *Notary Public.*

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